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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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GRACE MILES,

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Plaintiff,

No. C 08-04275 JSW

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v.

12

ROYCE MAKISHIMA, ET AL.,

13

Defendants.

**ORDER DENYING REQUEST
FOR STAY, REQUIRING
AMENDED COMPLAINT, AND
VACATING CASE
MANAGEMENT CONFERENCE**

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By order dated February 3, 2009, this Court denied Plaintiff Grace Miles' ("Miles") application to proceed *in forma pauperis* and ordered that Miles had failed to file a pleading setting forth the grounds upon which the Court could assess jurisdiction. The original complaint is disjointed to the point of being unintelligible. As a result, the Court required that Miles file an amended complaint by no later than March 6, 2009 and ordered that she pay the filing fee.

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On March 6, 2009, instead of an amended complaint, Miles filed a submission entitled "Notice of Filing, Request Auto Stay" based on her filing for bankruptcy protection. Despite her having filed a petition for bankruptcy, this action is not subject to the automatic stay provided by 11 U.S.C. § 362(a) because the action has not been brought against Miles. The automatic stay is not relevant here as Miles is the plaintiff in this matter. *See* 11 U.S.C. § 362(a)(1) (providing bankruptcy petition operates as automatic stay of "action or proceeding against the debtor"). Miles is therefore not entitled to a stay and her request is therefore DENIED.

United States District Court

For the Northern District of California

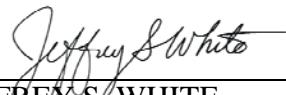
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2 However, the deadline for filing an amended complaint is long overdue and Miles has
3 failed to pay the court filing fee. Miles shall have until July 17, 2009 to file an amended
4 complaint in compliance Federal Rule of Civil Procedure 8(a) setting out (1) the underlying
5 basis for her suit; (2) the legal theories under which she seeks relief; and (3) what relief she is
6 seeking. In addition, Miles shall have until July 17, 2009 to pay the filing fee of \$350. *See*
7 28 U.S.C. § 1914(a).

8 In light of this Order, the case management conference set for this Friday, June 26, 2009
9 at 1:30 p.m. is HEREBY VACATED and shall be reset, if necessary, by further order of this
10 Court.

11 Failure to comply with this Order shall result in the **dismissal** of this action for failure to
12 prosecute. There shall be no further extensions of time.

13 **IT IS SO ORDERED.**

14 Dated: June 22, 2009


15 _____
16 JEFFREY S. WHITE
17 UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GRACE MILES,

Case Number: CV08-04275 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

ROYCE MAKISHIMA et al.

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 22, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

18 Grace Miles
21 Willow Road, No. 22
19 Menlo Park, CA 94025

20 | Dated: June 22, 2009

Richard W. Wleking, Clerk
By: Jennifer Ottolini, Deputy Clerk